

DRAWING AMENDMENTS

Applicant is submitting herewith a marked up copy of Fig. 6 showing the proposed amendment in red. The amendment is simply the addition of the identifying numeral 19 to identify the air vent which was described in original paragraph [0019] and which is illustrated in Fig. 6 but which was not initially numbered.

Also submitted is a formal amended Fig. 6.

REMARKS

First it is noted that the response to the outstanding Office Action was originally due with all available extensions on March 11, 2007. The Applicant, who was at the time proceeding *pro se*, unintentionally allowed the application to go abandoned, and Applicant is filing herewith a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with the appropriate fee.

Supplemental Information Disclosure Statement

Applicant notes that the electronic Information Disclosure Statement provided by the Examiner has cited and made of record all of the prior art references referred to by the *pro se* Applicant in the body of the present application other than one which was U.S. Patent No. 740,847 to Glebsattel. A Supplemental Information Disclosure Statement and Form PTO-1449 is being filed herewith to make clear that patent has also been disclosed and considered by the Examiner. Also, one new reference is being provided. A fee in the amount of \$180.00 for filing of the Supplemental Information Disclosure Statement is enclosed. Any further fee required with the Supplemental Information Disclosure Statement may be charged to Deposit Account No. 23-0035.

The §112 Rejections

The Examiner had noted some informalities in the format of the specification and the claims, and had rejected original claims 1-5 under 35 U.S.C. §112.

In addition to the fact that the original claims 1-5 have been cancelled, several amendments to the specification have been made to put the same in more appropriate form. Additionally, it is noted that new paragraphs [0020] - [0024] have been added. These paragraphs simply move the language that was originally found in claims 1-5 into the body of the specification, and accordingly there is no new matter added to the application.

A new series of claims 6-24 have been added which it is believed are in proper format and avoid any objections under 35 U.S.C. §112.

The Substantive Rejections

The Examiner had rejected original claims 1-5 under 35 U.S.C. §103 based upon U.S. Patent No. 5,293,912 to Wildash et al. in view of U.S. Patent No. 6,508,163 to Weatherill.

The Examiner's position basically was that Wildash et al. disclosed everything in the claims other than the glass sphere; that Weatherill disclosed the glass sphere; and that it would have been obvious to provide the device of Wildash with a glass sphere as taught by Weatherill.

That rejection, as it would be applied to the new claims, is respectfully traversed for the following reasons.

Turning first to the Wildash 5,293,912 patent, although its structure as shown in Fig. 1 thereof bears some superficial similarity to some portions of the present invention, it will be appreciated upon a close reading of that application that the Wildash structure is actually very different and functions in a completely

different way than does the present invention. The Wildash structure is simply a funnel through which wine is poured from a bottle into a carafe 50 as seen in Fig. 4 of Wildash et al. Although Wildash et al. describes that funnel using the term "container 10" and refers to that container 10 as including a "valve element 16" at its lower end, it will be understood upon a reading of Wildash et al. that its funnel 10 does not actually serve as a container for statically storing wine. Instead, the wine always flows through the Wildash device. Furthermore, the "valve element 16" of Wildash et al. is not a valve of the type which is moved between an open and closed position, but simply is a nozzle arrangement having a permanent annular gap 42 through which the wine flows in a sheetlike flow as shown in Fig. 4 of Wildash. The consumer does not in any way serve themselves from the apparatus 10 of Wildash et al., but instead the consumer using the Wildash device must pick up the carafe 50 and pour the wine from the carafe 50 into a glass.

With regard to Weatherill 6,508,163, the Examiner has referred to Figs. 7 and 8 as allegedly showing "a glass sphere 3". With respect, the structure 3 shown in Figs. 7 and 8 of Weatherill is not a sphere, and it is not disclosed as being made of glass. Instead, the item 3 of Weatherill is simply a "dome shaped surface" (see col. 3 line 64 of Weatherill). Thus at most, the Weatherill structure 3 shown in Figs. 7 and 8 thereof comprises a portion of a spherical surface, but it is not a sphere.

Turning now to the amended claims, there are two new independent claims 6 and 17. They will each be contrasted to the combination of the Wildash and Weatherill references.

New independent claim 6 reads as follows:

A decanter apparatus, comprising:
a container having an open top end and a lower end;
a filter disposed in the container;
a glass sphere received in the container above the filter, so that a beverage may be poured into the open top end of the container to flow over the sphere to aerate the beverage, and through the filter to filter the beverage, and into a lower portion of the container below the filter; and
a valve connected to the lower end of the container for dispensing the beverage from the container, the valve including an actuator for moving the valve between a closed position and an open position.

The Examiner's primary reference Wildash et al. is missing at least the following elements required by independent claim 6:

1. Wildash et al. does not include a glass sphere.
2. Wildash et al. does not include anything analogous to a glass sphere "above the filter".
3. Wildash et al. does not include a valve "including an actuator for moving the valve between a closed position and an open position".

Turning now to the Examiner's secondary reference to Weatherill, it is seen that Weatherill does not supply any of these missing elements.

First, with regard to the "glass sphere" required by claim 6, as previously noted Weatherill at most shows a semi-spherical dome, but that is not a sphere nor is it glass.

Certainly, Weatherill discloses nothing about any structure analogous to a glass sphere being "above the filter".

Furthermore, Weatherill does not disclose a valve including an actuator for moving the valve between a closed position and an open position located at the bottom of a container structure.

Accordingly, the combination of Wildash and Weatherill does not even provide all of the necessary elements of new claim 6, much less teach the combination of all of those elements. Furthermore, there would be no motivation to add an aerating device (such as Applicant's wine bubble) above the filter 60 of Wildash et al., because Wildash accomplishes its aeration via the hemi-spherical flow (col. 2, l. 47-48) from the outlet passage 42 at its lower end; as previously noted, Wildash et al. is not a static container but instead it is a funnel which itself performs the aerating function.

Turning now to independent claim 17, claim 17 reads as follows:

A decanter apparatus, comprising:

 a glass container having an upper end and a lower end, the upper end being open;

 a filter received in the container between the upper end and the lower end, the filter engaging and resting on the container, the filter comprising a concave filter portion;

 a wine bubble received on the concave filter portion; and

 a valve connected to the lower end of the container.

As compared to the Examiner's primary reference Wildash et al., the Wildash et al. reference is missing at least the following elements required by independent claim 17:

1. Wildash et al. does not disclose a "concave filter portion" as required by claim 17. The filter 60 of Wildash et al. is illustrated only as a simple flat disc filter.
2. Wildash et al. does not disclose a wine bubble as required by claim 17.
3. Wildash et al. does not disclose any structure analogous to a wine bubble which is "received on the concave filter portion", or for that matter on any part of the filter.

Turning now to the Examiner's secondary reference to Weatherill, it is seen that Weatherill does not supply any of these missing elements.

Accordingly, the combination of Wildash and Weatherill fails to even suggest each of the individual elements found in claim 17, much less a combination thereof.

The remaining claims are all dependent from either independent claim 6 or 17 and add many other novel features which are not shown or suggested by any of the Examiner's cited references.

For example, claim 7 requires that the container include an indentation ring (see element 19) formed in the glass container and that the filter rest upon the indentation ring. No such structure is suggested by any of the references.

Dependent claim 8 specifically describes the capacity of the container as having a capacity such that a full bottle of wine fills the container above the indentation ring so that any sediment from wine poured into the container will be released into an upper portion of the container above the filter. No such feature is suggested by any of the cited references, and as previously noted the Wildash et al. device does not hold wine or any other liquid in a static sense.

Dependent claim 9 adds the concave shape to the filter which has previously been discussed above with regard to independent claim 17.

Dependent claims 10 and 21 provide further details of the filter structure.

Dependent claims 11 and 12 and 23 and 24 require that the glass sphere or wine bubble contain a liquid medium which is further defined in claims 12 and 24 as water. No such structure is suggested by the Examiner's cited references.

Dependent claims 13 and 14 describe details of the support structure for the present invention which are completely different from the support structures shown in the cited references.

Dependent claims 15 and 19 describe the valve in much greater detail including the specific actuating lever thereof, which is not shown or suggested by any of the cited references.

Dependent claims 16 and 20 require that the filter include air vents, which are not shown or suggested by any of the cited references.

Dependent claim 18 further specifies that the container include an internal flange and describes the sealing engagement of the valve O-ring with the internal flange of the container, which is not shown or suggested by any of the cited references.

Finally, dependent claim 22 requires that the wine bubble of independent claim 17 comprise a glass sphere. As previously noted, the Wildash reference does not show or suggest a glass sphere.

Check and Deposit Account

Applicant's check in the amount of \$1,440.00 is enclosed to cover the \$750.00 petition fee, the \$510.00 extension of time fee, and the \$180.00 Supplemental Information Disclosure fee. Any further fees due in connection with this filing may be charged to Deposit Account No. 23-0035.

Accordingly, for all the reasons set forth above, reconsideration of the application is requested along with an early indication of the allowance of claims 6-24.

Respectfully submitted,



Lucian Wayne Beavers
Registration No. 28,183
WADDEY & PATTERSON
A Professional Corporation
Customer No. 23456

ATTORNEY FOR APPLICANT

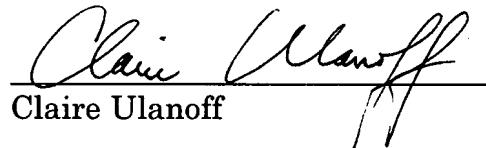
Lucian Wayne Beavers
Waddey & Patterson, P.C.
Roundabout Plaza
1600 Division Street, Suite 500
Nashville, TN 37203
(615) 242-2400

CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this Amendment in Application Serial No.10/708,625 having a filing date of March 16, 2004, including amended drawing Figure 6, Petition For Revival of an Application for Patent Abandoned Unintentionally, Supplemental Information Disclosure Statement with Form PTO-1449 and Exhibit A, and check for \$1,440.00 are being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on 4-6-07



Claire Ulanoff

4-6-07

Date